

Application Number: 10/066,738

Docket Number 2102

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NOV 01 2010**REMARKS***The Pending Claims*

Claims 21, 25, 28, 29, 32, 33, 36, 37, 40, and 41 have been cancelled and no claims have been amended or added. Thus, claims 1, 6-9, 11, 12, and 18-20 are currently pending in the application.

Summary of the Office Action

The Office Action dated June 1, 2010, included the following rejections and objections:

1. Claims 2 and 21 were objected to as being substantial duplicates.
2. Applicant's claims were not in proper reissue format.
3. Claims 21, 25, 28, 29, 32, 33, 36, 37, and 40-41 were rejected under 35 U.S.C. 251 as improperly broadening in a reissue application.
4. The reissue oath/declaration was objected to as being allegedly defective.
5. Claims 1, 2, 6-9, 11, 12, 18-21, 25, 28, 29, 32, 33, 36, 37, 40, and 41 were rejected as being based upon a defective reissue under 35 U.S.C 251.

In response to these rejections and in view of the above amendments, Applicant provides the following Remarks:

Discussion of the Rejections

Claims 2 and 21 were objected to as being substantial duplicates. Claim 21 has been cancelled.

The Office Action stated that Applicant's claims were not in proper reissue format. Applicant respectfully believes that all of the claims are now in the proper reissue format, indicating changes relative to the claims of the issued patent.

Claims 21, 25, 28, 29, 32, 33, 36, 37, and 40-41 were rejected under U.S.C. 251 as improperly broadening in a reissue application. Applicant respectfully believes this rejection is moot in view of the cancellation of the claims.

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The reissue oath/declaration filed with this application was alleged to be defective because it fails to contain the statement required under 37 CFR 1.175(a)(1). Claims 1, 2, 6-9, 11, 12, 18-21, 25, 28, 29, 32, 33, 36, 37, 40, and 41 were rejected as being based upon a defective reissue under 35 U.S.C. 251. Applicant submits herein a replacement reissue declaration which Applicant believes addresses all of the deficiencies in the previous declaration.

In particular, the declaration states Applicant's belief that the error lies in the fact that Claim 1 encompasses a fabric that was on sale or in public use more than one year before the original patent was filed. This is the type of error upon which reissue can be based, and it is described with sufficient particularity in the declaration.

The reissue declaration is signed by an authorized representative of the assignee, Milliken & Company. Applicant notes that proof of Milliken's ownership was submitted to the Office on February 4, 2002.

The objection to the oath/declaration and the rejection of the claims as being based on a defective reissue under 35 U.S.C. 251 have therefore been rendered moot and shown be withdrawn.

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Conclusion

In view of the forgoing amendments and remarks, the Examiner is respectfully requested to withdraw the outstanding rejections and to pass the subject application to allowance. In the event that the Examiner believes that the claims would be allowable with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment.


Fee Authorization: In the event that there are additional fees associated with the submission of these papers, Applicant hereby authorizes the Commissioner to withdraw those fees from our Deposit Account No. 04-0500.

Extension of Time: In the event that additional time is required to have the papers submitted herewith for the above referenced application to be considered timely, Applicant hereby petitions for any additional time required to make these papers timely and authorization is hereby granted to withdraw any additional fees necessary for this additional time from our Deposit Account No. 04-0500.

November 1, 2010

Respectfully submitted,

Legal Department
Milliken & Company
920 Milliken Road (M-495)
P.O. Box 1926
Spartanburg, SC 29304


Cheryl J. Brickey
Agent for Applicant(s)
Registration Number 56,891
Tel # (864) 503-1540